

# ORIGINAL



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## MEMORANDUM

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TO: Docket Control Center *Arizona Corporation Commission*  
FROM: Ernest G. Johnson **DOCKETED**  
Director  
Utilities Division  
AUG 17 2006

2006 AUG 17 P 3: 38

AZ CORP COMMISSION  
DOCUMENT CONTROL

DATE: August 17, 2006

DOCKETED BY	<i>nr</i>
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RE: BEAVER VALLEY WATER COMPANY APPLICATION FOR SALE OF ASSETS  
AND/OR TRANSFER OF CERTIFICATE OF CONVENIENCE & NECESSITY TO  
PROVIDE WATER SERVICE (DOCKET NO. W-02015A-03-0724)

### Introduction

On August 17, 2005, the Arizona Corporation Commission ("Commission") issued Decision No. 68083 which granted the transfer of assets and the Certificate of Convenience & Necessity ("CC&N") of Beaver Valley Water Company ("BVWC" or "Company") to Mr. Michael Davoren subject to timely compliance with certain requirements.

In Open Meeting on May 25, 2006, the Commission reopened the record in the matter and directed that additional proceedings be conducted. Specifically, the Administrative Law Judge ("ALJ") ordered that a Staff Report be filed in this matter by August 14, 2006. For administrative reasons, Staff requested additional time to file until August 17, 2006.

Based on the transcript of a June 29, 2006 procedural conference, the ALJ requested that the following items be addressed in the Staff Report or in testimony at the hearing:

- 1) Decision Nos. 66388 and 68083 compliance items, history and current status.
- 2) Arizona Department of Environmental Quality ("ADEQ") Issues and Reporting.
- 3) Refunds to Customers.
- 4) Storage issues for the system.
- 5) Accounting issues as far as following National Association of Regulatory Utility Commissions ("NARUC") procedures.

This Staff Report filing will discuss the issues outlined by the ALJ.

### Decision No. 66388 – History and Current Status

In Decision No. 66388, dated October 6, 2003, the Commission ordered BVWC to timely comply with the following ordering paragraphs:

- 1) **Reconnect its existing well to the system as a backup source no later than December 1, 2004. If the Company determines that reconnection of the well is not feasible for technical or economic reasons, the Company should report to the Director of the**

**Utilities Division its findings no later than twelve months from the effective date of the Commission's order in this matter. Staff further recommends that a well meter be installed on the well prior to its reconnection to the system.**

- 2) Construct the 20,000 gallon storage tank project to comply with ADEQ requirements as soon as possible and submit a copy of the Certificate of Approval of Construction to the Utilities Division no later than December 1, 2004.**

The well and storage tanks (item one and two) have not been reconnected to the system. Please refer to the attached Engineering Report for details on these items. On August 4, 2006, Staff docketed a Company filing which indicated that the reconnection of the existing well and installation of the storage tanks are not economically feasible.

Staff recommends that the Commission grant additional time to comply until December 31, 2007.

- 3) File an affidavit, within 60 days of a Decision, with the Compliance Section of the Utilities Division verifying that it has begun to maintain its books and records in compliance with the NARUC Uniform System of Accounts for water utilities.**

The Company docketed verification of this item on March 11, 2004.

- 4) The rates and charges shall be effective for all service provided on and after the first day of the month following the date that both of the following have occurred. 1) the Commission has approved an application for transfer or sale of the Beaver Valley Water Company's assets and transfer of its Certificate of Convenience and Necessity to a fit and proper entity; and 2) Beaver Valley Water company has filed, with the Director of the Utilities Division, written documentation from the Arizona Department of Environmental Quality stating that its system has no maximum contaminant level violations and is serving water that meets the water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.**

1. BVWC filed an application and the Commission granted the transfer and sale of assets to Mr. Michael Davoren subject to timely compliance in Decision No. 68083.
2. Staff received a compliance status report from ADEQ dated July 25, 2006. This report stated the Company is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

Staff recommends that the transfer of assets and CC&N to Michael Davoren, a sole proprietorship, be hereby approved effective August 17, 2005.

- 5) Notify customers of the revised rates and charges authorized herein, and their effective date, in a form acceptable to the Commission's Utilities Division Staff, by means of an insert in its next regularly scheduled billing following the date that the two events referenced in this Decision have occurred.**

Staff recommends that the revised rates and charges authorized in Decision No. 66388 be deemed effective as of August 17, 2005. The Company should notify customers of the revised rates and charges in their next regularly scheduled billing.

#### **Decision No. 68083 – History and Summary**

In Decision No. 68083, dated August 17, 2005, the Commission ordered BVWC to comply with ordering paragraphs pertaining to the following:

- 1) Demonstration that the company was being transferred free and clear.**

Staff received documentation on November 1, 2005. This requirement has been fulfilled.

- 2) Filing of evidence regarding Arizona Department of Environmental Quality ("ADEQ") water quality compliance.**

Staff received a compliance status report from ADEQ dated July 25, 2006. This report stated the Company is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4. This requirement has been fulfilled.

- 3) Calculating the rate overcharge amount for each customer for each month after November 2003.**

This requirement has been fulfilled.

- 4) Noticing its customers of the overcharges and the manner in which credits will be applied, in a form acceptable to Commission Staff, by means of an insert in its regular monthly billing.**

This requirement has been fulfilled.

- 5) Refund to its customers credits as described in the decision.**

This item is ongoing and has not been completed at this time. The refunds were devised over a twenty-two (22) month period and began in the month of January 2006. Per discussion with Mr. Davoren, at the end of May 2006, the Company had completed five (5) months worth of refunds. The twenty-two (22) month overcharge period would

therefore be over in October 2007. Staff confirmed with Mr. Davoren that the customer refunds are being conducted per this schedule.

Staff recommends that the Commission grant time to fully comply until December 31, 2007.

### **Accounting/NARUC Procedures**

Finding of Fact No. 32 of Decision No. 66388 stated that the Company should file an affidavit with the Compliance Section verifying that it has begun to maintain its books according to the National Association of Regulatory Utility Commissioner' ("NARUC") Uniform System of Accounts.

The Company filed the required affidavit on March 11, 2004.

### **Other Items**

The Company has been in violation of Arizona Administrative Code ("A.A.C.") R14-2-411(D)(4) relating to the filing of annual reports. Mr. Davoren has been involved in the operation of the Company since 2003 and no annual report had been received in that time. In Staff's May 22, 2006 memorandum, Staff recommended that the Company be ordered to file an annual report only for the year of 2005 because Mr. Davoren stated that previous year information was not available.

The Company complied with this Staff recommendation by filing the 2005 Annual Report on May 25, 2006.

### **Recommendations**

Staff's most recent set of recommendations were found in the May 22, 2006 Staff memorandum. Based on all the information available to date, Staff now recommends that Decision No. 68083 be amended to reflect the following six recommendations:

- 1) The transfer of assets and CC&N to Mr. Michael Davoren, a sole proprietorship, is hereby approved effective August 17, 2005.
- 2) Mr. Michael Davoren, a sole proprietorship, shall agree to refund to the customers credits outlined in the Decision and shall continue until all overages from the period November 2003 through August 2005 have been refunded. These refunds will be completed by December 31, 2007.
- 3) The rates and charges conditionally approved in Decision No. 66388 shall be effective as of the date of the sale of assets and transfer of the CC&N – effective August 17, 2005.
- 4) Mr. Michael Davoren, a sole proprietorship, will attain full compliance with ADEQ Notice of Violation requirements by December 31, 2007.

- 5) Mr. Michael Davoren, a sole proprietorship, will reconnect the existing well to the system and install the required additional 20,000 gallons of storage in compliance with Decision No. 66388 by December 31, 2007.
- 6) If Mr. Michael Davoren does not comply with the requirements and timeframes contained in Item Nos. 2, 4, and 5 above, Mr. Davoren shall pay a fine of \$20,000, unless Mr. Davoren can show good cause why such a fine should not be imposed.

### **Other Recommendations**

If the sale of assets and transfer of the CC&N is approved, Staff further recommends that, as soon as possible, the Company do research to determine if the Utility's situation requires any type of regulatory or other application, such as:

- A rate application.
- A financing application to the Water Infrastructure Authority of Arizona ("WIFA").
- An application for any grant (or other) monies that may be specifically available via the rural financing marketplace.

### **Summary**

It is Staff's view that Mr. Michael Davoren has made significant improvements to the Beaver Valley system. These improvements, along with the Company meeting ADEQ Water Quality Standards, have allowed Staff to make the recommendations it has.

Staff's recommendations result in the Company receiving until December 31, 2007 to complete its remaining compliance items. Staff's recommendations will further serve to clarify and simplify the ownership situation through the completion of the transfer and the recognition of the new rates and charges as of August 17, 2005. This set of recommendations will allow the Company to meet its compliance requirements and move forward to improve the system and provide adequate service to its customers.

EGJ:BKB:lhbm

Originator: Brian K. Bozzo

SERVICE LIST FOR: BEAVER VALLEY WATER COMPANY  
DOCKET NO. W-02015A-03-0724

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Beaver Valley Water Company  
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Ms. Lyn Farner, Chief  
Hearing Division  
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## **MEMORANDUM**

**DATE** August 2, 2006

**TO:** Kim Battista, Chief  
Compliance, Enforcement & Administration Section

**FROM:** D. Hains, P. E.  
Utilities Engineer

**RE:** **Beaver Valley Water Co.**  
**Application for a Sale of Assets And/Or Transfer of Certificate of**  
**Convenience & Necessity to Provide Water Service**  
**Docket No. W-02015A-03-0724**

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### **Introduction**

On October 1, 2003 Beaver Valley Water Company ("Beaver Valley" or "Company") filed the subject application. The Company's service area is near Star Valley in the Tonto National Forest, approximately 11 miles northeast of Payson in Gila County.

A Procedural Conference was held regarding the Company's application on June 29, 2006. On July 3, 2006 the Administrative Law Judge issued a Procedural Order. In the Procedural Order Staff was ordered to issue a Staff Report. During the Procedural Conference, Staff was ordered to address several issues including connection of the existing well, the issue of additional storage capacity and Arizona Department of Environmental Quality ("ADEQ") compliance status.

On July 13, 2006, Staff Engineer, Dorothy Hains, Staff Compliance Officers, Brian Bozzo and Carmela Leon and the Company's Representative, Mike Davoren, inspected the Beaver Valley water system.

### **Existing Water System**

The Beaver Valley water system consists of a well<sup>1</sup>, a water treatment system, two storage tanks with 20,000-gallons of storage capacity, one pressure tank, and a distribution system serving 195 customers. The Company has two potential sources of water, groundwater from the well and surface water from the East Verde River ("River"). In the past, the well has been inactive and has not been an available source of water; therefore, the Company has only had surface water which must be treated by the water treatment system and disinfection before it is delivered to customers. In the late summer

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<sup>1</sup> Arizona Department of Water Resources #55-631548.

and during times of drought, the River has become bone dry. In that circumstance, the River will not be providing an adequate source of water and the Company will have a water supply problem. Staff has recommended that the Company reactivate the well as a back-up water source so that when the River becomes dry the Company will continue to have an adequate supply of water<sup>2</sup>.

### **Findings in the Field and Procedural Order Issues**

#### **A. Connection of the Well**

At the time of Staff's inspection, the existing well had not been connected to the water system and therefore remains inactive. Mr. Davoren stated that a new well meter and a new 1½ horse power ("HP") well pump had recently been installed and that it was capable of pumping 27 gallons of water per minute ("gpm") out of the well. However, ADEQ still has not approved connecting the well to the system. Mr. Davoren told Staff that he had the well water tested and that there were no bacteria, arsenic or nitrate violations identified in the sample tested.

Mr. Davoren informed Staff that the Company was considering converting its entire surface water system to a groundwater only system. If this happens, the Company will need a second well because the one existing well alone would not have adequate production capacity to serve existing customers.

Staff concludes that the existing well needs to be connected to the system and available as a back-up source of water so that the Company has a sufficient amount of water available to serve its customers throughout the year.

#### **B. Additional Storage Capacity**

The Company has purchased two new 10,000 gallon metal storage tanks; however, these tanks were not connected to the system at the time of Staff's inspection. ADEQ has not approved the connection of the new tanks to the water system. At present time, the Company has 20,000 gallons of storage capacity which is not adequate to serve existing customers. The additional storage is needed so the system has sufficient storage capacity.

Since the new storage tanks have not been connected to the system, Staff concludes that the Company's storage capacity is inadequate to serve existing customers.

#### **C. Arizona Department of Environment Quality ("ADEQ") Water Quality Compliance Status**

Staff received an updated ADEQ Compliance Status report for Beaver Valley Water Company (Public Water System ID #04-004) on July 27, 2006. In this report, ADEQ stated that the Company has major deficiencies due to inadequate storage capacity; however, it also stated that ADEQ has determined that this system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4. A copy of this report is attached.

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<sup>2</sup> See 2003 Staff Report for Docket # W-02015A-03-0268.



## **Arizona Department of Water Resources ("ADWR") Compliance**

Beaver Valley is not in any ADWR Active Management Area. The Company is not subject to ADWR's gallons per capita per day ("gpcd") limits and conservation rules. Beaver Valley is in compliance with ADWR's reporting requirements.

### **Summary**

#### **I. Findings and Conclusions:**

1. At the time of Staff's inspection, the existing well had not been connected to the water system and therefore remains inactive. Staff concludes that the existing well needs to be connected to the system and available as a back-up source of water so that the Company has a sufficient amount of water available to serve its customers throughout the year.
2. The Company has purchased two new 10,000 gallon metal storage tanks; however, these tanks were not connected to the system at the time of Staff's inspection. Since the new storage tanks have not been connected to the system, Staff concludes that the Company's storage capacity is inadequate to serve existing customers. ADEQ has determined the water system has major deficiencies due to inadequate storage.
3. ADEQ has determined that the water system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.
4. The Company is not in any ADWR Active Management Area. Beaver Valley is in compliance with ADWR's reporting requirements.

**Arizona Department of Environmental Quality**  
**Water Quality Compliance Assurance Unit**  
1110 W. Washington Street, 5415B-1  
Phoenix, AZ 85007

**Drinking Water Compliance Status Report**

**Public Water System Name:** Beaver Valley Water Co.

**Public Water System ID #:** 04-004

**Public Water System Type:** ☒ Community ☐ Non-transient Non-community ☐ Transient Non-community

**Overall Compliance Status:** ☐ No Major Deficiencies ☒ Major Deficiencies

**Monitoring and Reporting Status:** ☒ No Major Deficiencies ☐ Major Deficiencies  
Comments:

**Operation and Maintenance Status:** ☐ No Major Deficiencies ☒ Major Deficiencies  
Comments:

Major unresolved/ongoing operation and maintenance deficiencies:

- |   |  |
|---|--|
| <input type="checkbox"/> unable to maintain 20psi           | <input checked="" type="checkbox"/> inadequate storage |
| <input type="checkbox"/> cross connection/backflow problems | <input type="checkbox"/> surface water treatment rule  |
| <input type="checkbox"/> treatment deficiencies             | <input type="checkbox"/> approval of construction      |
| <input type="checkbox"/> certified operator                 | <input type="checkbox"/> other                         |

Date of last inspection / sanitary survey: 4-26-06

**Administrative Orders:**

Is an ADEQ administrative order in effect? ☐ Yes ☒ No  
Comments:

**System information:**

Number of Entry Points to the Distribution System 1 Number of Sources 2

Population Served 200 Service Connections 185 Initial Monitoring Year 1993

**Evaluation completed by:** Jim Puckett

**Phone:** 602-771-4649

**Date:** 7-25-06

Based upon data submitted by the water system, ADEQ has determined that this system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4. This compliance status report does not guarantee the water quality for this system in the future. This compliance status report does not reflect the status of any other water system owned by this utility company.